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7550 06/04/2009 Wilfred Lam Innovation Management Sciences P.O. Box 1169 Los Altos, CA 94023-1169			EXAMINER PHAM, HUNG Q	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/789,665

**Applicant(s)**

ROCHE ET AL.

**Examiner**

HUNG Q. PHAM

**Art Unit**

2159

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11, 20, 21, 23, 24 and 26-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 20, 21, 23, 24 and 26-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

#### Claim Rejections - 35 USC § 101

Applicant's arguments with respect to the rejection under 35 U.S.C. § 101 have been fully considered and are persuasive. The rejection of claims 20, 21, 23 and 24 has been withdrawn.

#### Claim Rejections - 35 USC § 112

- Applicant's arguments with respect to the rejection of claims 34 and 35 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, have been fully considered and are persuasive. The rejection of claims 34 and 35 has been withdrawn.

- Applicant's arguments with respect to the rejection of claim 1 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, have been fully considered but they are not persuasive.

As indicated in the Office Action 03/26/2008, claim 1 was rejected under 35 U.S.C. § 112, 1<sup>st</sup> paragraph. The claimed limitation "*the selected product information includes data that is transmitted to the point of presentation from a server at a third network location in response to the user interaction*" of claim 1 was not described in the specification.

The applicant directed the examiner to Paragraph 27 (lines 5-8) and Paragraph 37 (lines 10-11), especially cited "*the Seller's E-Commerce server 132 then returns the product-related page 125 to the presentation device 34*" as the description of the rejected limitation.

In view of the cited description of Paragraph 37, the applicant clearly asserted that "*the product-related page 125*" is equivalent to the claimed *data* that is included in *the selected product*

*information, "the presentation device 34" is equivalent to the claimed the point of presentation, and "the Seller's E-Commerce server 132" is equivalent to the claimed a server at a third network location.*

The examiner respectfully disagrees.

In view of the Specification of the current application, the claimed *the point of presentation* is a Web-page (Specification, Paragraph 0026, *the point of presentation or sale may refer to the output medium of an interactive catalog, e.g., a Web-page*). The claimed "*product information*" in view of the Specification refers to data related to a product and its attributes such as product name, SKU number, price, description, photograph, product family or style, etc. (Specification, Paragraph 0022, *the terms "product information" and "product data" will be used to refer generally to data that is inherently related to a product and its attributes, such as product name, SKU number, price, description, photograph, product family or style, etc.*).

Thus, the cited description of Paragraph 0027 is not the description of the claimed limitation "*the selected product information includes data that is transmitted to the point of presentation from a server at a third network location in response to the user interaction*" because "*the presentation device 34*" is not *the point of presentation*, e.g., Web-page. Moreover, "*the product-related page 125*" is not considered as *data* that is included in *the selected product information* because "*the product-related page 125*" is not data related to a product and its attributes. Data related to a product includes product name, SKU number, price, description, photograph, product family or style, etc. as defined in the Specification.

- Applicant's arguments with respect to the rejection of claim 2 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, have been fully considered but they are not persuasive.

In response to the rejection of claim 2 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, the applicant direct the examiner to Paragraph 0037, lines 10-11 with the same quotation as discussed above regarding claim 1.

Claim 2 was rejected because the claimed limitation *the point of presentation comprises a presentation device at the second network location on which the product is presented* was not described in the Specification. In view of the Specification, *the point of presentation* is a Web-page. The claimed *a presentation device* appears to be hardware. Hardware is unable to be included in a Web-page.

For at least the reasons as discussed above, the rejection of claims 1 and 2 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, is continued.

**Claim Rejections - 35 USC § 102 and 103**

- Applicant's arguments with respect to the rejection of claim 1 under 35 U.S.C. § 102(b) have been fully considered but they are not persuasive.

As argued by applicant (Remarks, Page 18):

*... Specifically, the following claim language is fundamentally different from the disclosure of Harrington, and accordingly renders the claim containing that language patentably distinct from the cited reference:*

*"obtaining merchandising data ... presented --- at a second network location from a server at a third network location; and*

*storing at least part of the obtained merchandising data ... at the first network location..."*

*Claim 1, lines 3-9. Also, similar language is found in claim 8, lines 3-7; claim 20, lines 4-12; claim 26, lines 12; and claim 34, lines 3-10. That is, while the present application claims that the merchandising server obtains the product data from the user workstation, Harrington teaches that it obtains that data from the vendor site (and does not suggest it could be otherwise). Furthermore, by their dependence on these claims, the remainder of the claims in the present application also contains the quoted language. Therefore, those claims must also be patentably distinct from Harrington.*

The examiner respectfully disagrees.

The claimed "**product information**" in view of the Specification refers to data related to a product and its attributes such as product name, SKU number, price, description, photograph, product family or style, etc. (Specification, Paragraph 0022, *the terms "product information" and "product data" will be used to refer generally to data that is inherently related to a product and its attributes, such as product name, SKU number, price, description, photograph, product family or style, etc.*). The claimed **merchandising data** refers to product information, customer response information, and/or other data (Specification, Paragraph 0022, *"merchandising data" refer to data that may be relevant to or useful to merchandising activities and may include, but not limited to, product information, customer response information, and/or other data*)

As disclosed by Harrington, a user is able to connect to any of the websites 12a-g in FIG. 1, whereupon the user 11 would interact with the remote vendor website 23 using the commands and structured data hierarchy (Harrington, Col. 4-Lines 15-22). While reviewing the products/services provided by the vendor 25, if the user wishes to order or purchase a product/service, he/she clicks on a "purchase" icon or button (Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a transaction notification in the form of a data packet including product/service ordered, the price, availability and other identifying data relevant to the user is transmitted to the database administration software 21. As the user navigates his or her way through a number of vendor websites, multiple transaction notifications can be sent back to the database administration software 21 (Harrington, Col. 4-Lines 35-46). The transaction notifications in the form of data packets are recorded in a database (Harrington, Col. 2-Lines 40-50). As shown in Harrington's FIG. 1 is the network layout, wherein user, server and vendor sites are at different locations.

The product/service ordered, the price, availability and other identifying data is considered as being equivalent to the claimed **merchandising data**. The user site is considered as

being equivalent to the claimed *a second network location*. The vendor site, e.g., vendor site 12A of Harrington's FIG. 1, is considered as being equivalent to the claimed *a server at a third network location*. The database 10 at implemented by server application of Harrington's FIG. 1 is considered as being equivalent to the claimed *merchandising product database at the first network location*.

The Harrington's teaching as discussed clearly reads on the claimed limitations "*obtaining merchandising data ... presented --- at a second network location from a server at a third network location*", e.g., product ordered, the price, availability and other identifying data is obtained via transaction notification in the form of a data packet from the displayed web site at the user location. The displayed web site having product ordered, the price, availability that is transmitted from the vendor site, and "*storing at least part of the obtained merchandising data ... at the first network location...*", e.g., the obtained product ordered, the price, availability and other identifying data via transaction notification in the form of a data packet is stored in database 10.

- Applicant's arguments with respect to the rejection of claim 26 under 35 U.S.C. § 102(b) have been fully considered but they are not persuasive.

As argued by applicant (Remarks, Page 19):

*Further still claim 28<sup>1</sup> makes one important differentiation from Harrington explicit: "the selected data is communicated from the source product databases to the merchandising product database by way of the second network location and without requiring a direct data transfer between the source product databases at the third network location and the merchandising product database at the first network location". (Claim 26, lines 7-12.) This further strengthens the difference between the claimed invention (data provided by user to merchandising server) and the disclosure of Harrington (data provided by vendor*

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<sup>1</sup> There is a typo regarding the claim. This should be 26 instead of 28.

*to merchandising server). Claims 27-30 depend from claim 26, and therefore also contain this explicit differentiation from Harrington.*

The examiner respectfully disagrees.

As discussed above with respect to claim 1, the obtained product ordered, the price, availability and other identifying data via transaction notification in the form of a data packet is communicated from the vendor site to database 10 by way of the user site and without requiring a direct data transfer between the vendor site and database 10.

- Applicant's arguments with respect to the rejection of claims 3 and 4 under 35 U.S.C. § 102(b) have been fully considered but they are not persuasive (Remarks, Pages 19 and 20).

The examiner respectfully disagrees.

As discussed above regarding claim 1, before activating the "purchase" button, product/service ordered, the price, availability is rendered on an interactive web page that is displayed on the user site via a browser application. After activating the "purchase" button, product ordered, the price, availability is transmitted to database 10 via a transaction notification in the form of a data packet. The Harrington's teaching clearly reads the claimed *the selected product information comprises data about the product rendered at the point of presentation at the second network location*, e.g., product ordered, the price, availability is data bout the product rendered at the web page that is displayed on the user site, and *the merchandising product database does not have information related to the product stored therein prior to the storing step*, e.g., database 10 does not have the obtained product ordered, the price, availability information before storing.



- Applicant's arguments with respect to the rejection of claims 34 under 35 U.S.C. § 102(b) have been fully considered but they are not persuasive (Remarks, Pages 21 and 22). Claim 34 is similar to claim 1. Claim 34 is unpatentable for at least the reasons as discussed above regarding claim 1.

- Applicant's arguments with respect to the rejection of claims 35 under 35 U.S.C. § 102(b) have been fully considered but they are not persuasive (Remarks, Pages 21 and 22). As discussed above with respect to Harrington' teaching of activating the "purchase" button, the "purchase button" is considered as being equivalent to the claimed *device executable code*. The "purchase button" causes the user computer to transmit product ordered, the price, availability to database 10 at the same time the web page having product ordered, the price, availability is rendered on the user computer.

- Applicant's arguments with respect to the rejection of claims 29 and 37 under 35 U.S.C. § 103(a) have been fully considered but they are not persuasive (Remarks, Page 23). Harrington teaches the claimed limitation as argued by applicant as discussed above regarding claim 1.

For at least the reasons as discussed above, the rejections under 35 U.S.C. § 102(e) and 103(a) are continued as following.

#### ***Duplicate Claims, Warning***

Applicant is advised that should claim 1 be found allowable, claim 34 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application

are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

As recited in claim 1, the claimed limitation, *the selected product information includes data that is transmitted to the point of presentation from a server at a third network location in response to the user interaction*, was not described in the specification.

Regarding claim 2, the claimed limitation, *the point of presentation comprises a presentation device at the second network location on which the product is presented*, was not described in the specification.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-9, 11, 20, 21, 23, 24, 26-28, 30-36 and 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrington [USP 5,895,454].**

Regarding claims 1, 20 and 34, Harrington teaches a method and program for *populating a merchandising product database*, comprising:

*obtaining merchandising data related to a product from a point of presentation at a second network location, the obtaining step comprising acquiring selected product information from at least one user interaction at the point of presentation with a presentation medium* (As disclosed by Harrington, a user is enable to connect to any of the websites 12a-g in FIG. 1, whereupon the user 11 would interact with the remote vendor website 23 using the commands and structured data hierarchy (Harrington, Col. 4-Lines 15-22). While reviewing the products/services provided by the vendor 25, if the user wishes to order or purchase a product/service, he/she clicks on a "purchase" icon or button (Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a transaction notification in the form of a data packet including product/service ordered, the price, availability and other identifying data relevant to the user is transmitted to the database administration software 21. As the user navigates his or her way through a number of vendor websites, multiple transaction notifications can be sent back to the database administration software 21 (Harrington, Col. 4-Lines 35-46). The transaction notifications in the form of data packets are

recorded in a database (Harrington, Col. 2-Lines 40-50). As shown in Harrington's FIG. 1 is the network layout, wherein user, server and vendor sites are at different locations. The product/service ordered, the price, availability and other identifying data is considered as being equivalent to the claimed *merchandising data related to a product*. The product ordered, the price, availability is considered as being equivalent to the claimed *selected product information*. The displayed web site including ordered product/service, price, availability and other identifying data with "purchase" button at user site is considered as being equivalent to *a point of presentation at a second network location Or the point of presentation with a presentation medium*. In short, the Harrington's technique as discussed indicates the step of *obtaining merchandising data related to a product from a point of presentation at a second network location*, e.g., ordered product, price, availability and other identifying data is obtained in the form of data packet from the displayed web page at user site, *the obtaining step comprising acquiring selected product information from at least one user interaction at the point of presentation with a presentation medium*, e.g., the obtaining of ordered product, price, availability and other identifying data comprising acquiring ordered product, price, availability data from the activation of "purchase" button at the displayed web page on user's monitor),

*wherein the selected product information includes data that is transmitted to the point of presentation from a server at a third network location in response to the user interaction* (Ordered product, price, availability data including product data that is transmitted to the displayed web page at user site from vendor site in response to user's navigation before activation of "purchase" button);

*storing at least part of the obtained merchandising data in the merchandising product database at the first network location* (As shown in FIG. 1, the database 10 is *merchandising product database at the first network location*. Harrington further teaches that the transaction notifications in the form of data packets are recorded in a database (Harrington, Col. 2-Lines 40-50). In short, the ordered product, the price, availability and other identifying data that is obtained via transaction notification in the form of a data packet is stored in database 10 (Col. 4 Lines 9-15)),

*the storing comprising collecting the selected product information in the merchandising product database* (Storing of ordered product/service, the price, availability and other identifying data comprising collecting ordered product, the price, availability data in database 10).

Regarding claims 2 and 21, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Harrington further discloses *the point of presentation comprises a presentation device at the second network location on which the product is presented* (FIG. 1, a presentation device such as a monitor is an inherited feature of user 11).

Regarding claim 3, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, Harrington further discloses *the selected product information comprises data about the product rendered at the point of presentation at the second network location* (Col. 4 Lines 35-50).

Regarding claim 4, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, Harrington further discloses the claimed limitation *the merchandising product database does not have information related to the product stored therein prior to the storing step* (Col. 4 Lines 35-50).

Regarding claims 5 and 23, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Harrington further discloses *the obtaining step comprises obtaining the merchandising data generally contemporaneously with presentation of the product at the second network location* (Col. 6 Lines 15-24).

Regarding claims 6 and 24, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 1 and 20, Harrington further discloses *the presentation medium comprises an output medium of an interactive catalog* (Col. 4 Lines 12-15).

Regarding claim 7, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, Harrington further discloses *the presentation medium comprises a Web-page* (Col. 4 Lines 12-15).

Regarding claim 8, Harrington teaches a merchandising database system at a first network location (FIG. 1), comprising:

*an interface configured to be coupled to a network* (As shown in Harrington's FIG. 1, Client Browser Application 13 is *an interface configured to be coupled to a network*) and *to obtain selected product data related to a product presented at a second network location from at least one user interaction at the second network location with a Web-page served by a server at a third network location* (As disclosed by Harrington, a user is enable to connect to any of the websites 12a-g in FIG. 1, whereupon the user 11 would interact with the remote vendor website 23 using the commands and structured data hierarchy (Harrington, Col. 4-Lines 15-22). While reviewing the products/services provided by the vendor 25, if the user wishes to order or purchase a product/service, he/she clicks on a "purchase" icon or button (Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a transaction notification in the form of a data packet including product/service ordered, the price, availability and other identifying data relevant to the user is transmitted to the database administration software 21. As the user navigates his or her way through a number of vendor websites, multiple transaction notifications can be sent back to the database administration software 21 (Harrington, Col. 4-Lines 35-46). The Harrington's

teaching indicates the Browser Application is to *obtain selected product data related to a product presented at a second network location from at least one user interaction at the second network location with a Web-page served by a server at a third network location, e.g., ordered product, price, availability and other identifying data related to a product presented at user site is obtain in the form of data packet from the activation of "purchase" button at user site with a web page served by the vendor server at vendor site), wherein the selected product data includes data that is transmitted to the second network location from the server at the third network location in response to the user interaction* (Ordered product, price, availability data including product data that is transmitted to the displayed web page at user site from vendor site in response to user's navigation before activation of "purchase" button); and *a storage device configured to store at least part of the selected product data at the first network location* (The transaction notifications in the form of data packets are recorded in a database at server site (Harrington, Col. 2-Lines 40-50)).

Regarding claim 9, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 8, Harrington further discloses *the interface is configured to obtain the selected product data directly from a presentation device on which the Web-page is presented at the second network location* (Col. 4 Lines 35-50).

Regarding claim 11, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 9, Harrington further discloses *the interface is configured to obtain the selected product data generally contemporaneously with presentation of the Web-page* (Col. 6 Lines 15-24).

Regarding claim 26, Harrington teaches a method for populating a merchandising product database located at a first network location, comprising:

*rendering in response to user interaction with an interactive catalog, at least a portion of the interactive catalog at a second network location* (A hierarchical menu is displayed for querying (Col. 5 Lines 25-47). A list of vendor websites is provided according to the query and the user is connected to a selected vendor website using command (Col. 4 Lines 12-22). The Harrington teaching indicates the step of *rendering in response to user interaction with an interactive catalog*, e.g., in response to user interaction with the hierarchical menu, *at least a portion of the interactive catalog at a second network location*, e.g., the selected vendor website is rendered at the user site),

*wherein content of the rendered portion includes selected data related to one or more products displayed by the rendered portion of the interactive catalog* (The content of the selected vendor website includes selected data related to the product displayed at the selected vendor website, e.g., information related to product ordered, the price, availability... (Col. 4 Lines 23-50)), and

*wherein the content is obtained by the second network location from one or more source product databases at a third network location in response to the user interaction with the interactive catalog* (As discussed above, the content of the selected vendor web site is obtained by the user from the vendor site in response to user interaction with the hierarchical menu);

*communicating the selected data related to the products from the second network to the merchandising product database at the first network location such that the selected data is communicated from the source product databases to the merchandising product database by way of the second network location in response to the user interaction and without requiring a direct data transfer between the source product databases at the third network location and the merchandising product database at the first network location* (Col. 4 Lines 35-50 and Col. 7 Lines 1-11); and

*modifying the merchandising product databases using the selected data such that the databases include a representation of the selected data* (Col. 7 Lines 1-11).



Regarding claim 27, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 26, Harrington further discloses *information from the source product databases is communicated to the merchandising product database through the interactive catalog* (Col. 5 Lines 25-47 and Col. 4 Lines 12-22).

Regarding claim 28, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 26, Harrington further discloses *the selected data comprises parameters embedded within the rendered portion of the interactive catalog* (Col. 4 Lines 35-50).

Regarding claim 30, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 26, Harrington further discloses *the selected data comprises a product description* (Col. 4 Lines 35-50).

Regarding claims 31-33, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, 8 and 20, Harrington further discloses *the selected information comprises portions of the presentation medium specified by the third network location for storage at the merchandising database at the first network location* (Col. 4 Lines 35-50).

Regarding claim 35, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 34, Harrington further discloses *presentation medium comprises device executable code that causes said presentation device to transmit said product data to said first network location contemporaneously with rendering of said presentation medium on said presentation device* (Col. 4 Lines 35-50).

Regarding claim 36, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 35, Harrington further discloses *presentation medium comprises a Web page* (Col. 4 Lines 35-50).

Regarding claim 38, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 36, Harrington further discloses *product data comprises a product description* (Col. 4 Lines 35-50).

Regarding claim 39, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 36, Harrington further discloses *product data comprises parameters specified by said third network location for storage at said merchandising product database at said first network location* (Col. 4 Lines 35-50).

Regarding claim 40, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 39, Harrington further discloses the step of *storing said parameters in said merchandising product database contemporaneously with said user action* (Col. 4 Lines 35-50).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington [USP 5,895,454] in view of Musgrove et al. [USP 6,535,880 B1].**

Regarding claims 29 and 37, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 26 and 36, but does not explicitly teach *the selected data comprises a product identification*.

Musgrove teaches *the selected data comprises a product identification* (Musgrove, Col. 7 Lines 1-5).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to include product identification in the selected data in order to keep track the product orders.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES K. TRUJILLO can be reached on 571-272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUNG Q. PHAM/  
Primary Examiner, Art Unit 2159

HUNG Q. PHAM  
Primary Examiner  
Art Unit 2159

June 1, 2009